

REMARKS

Claims 1-29, 31 and 36 have been canceled and claims 30 and 35 have been amended. Thus, claims 30 and 32-35 are currently pending in the application.

Claim 30 was rejected under 35 U.S.C. 103 as being unpatentable over Saab 5,624,392 in view of Saringer 5,895,418, Utterberg et al. 6,383,158, Noda et al 6,146,411 and Hyatt 4,800,823. Applicants respectfully traverse this rejection.

Applicants have amended claim 30 to recite that the step of providing a circuit includes a disposable circuit comprising, among other structure, a housing having a pump head and a reservoir disposed therein. None of the art cited, taken alone or in combination teach or even suggest such a disposable circuit having a housing having a pump head and a reservoir disposed therein that is also in fluid communication with an external heat exchanger and heat exchange catheter such that fluid pumped by the pump head is circulated through the heat exchange catheter and the external heat exchanger. As noted by the Examiner, Saab does not show the fluid supply structure. Moreover, while Saringer does show a heat exchange device, Saringer does not teach or even suggest a disposable circuit including a housing having a pump head and a reservoir disposed therein. Saringer's device is designed to accept a disposable pad, but all of the pumps and reservoirs disclosed by Saringer are not disposable, in contrast with the housing having a pump head and a reservoir disposed therein included in the method claimed in amended claim 30.

Further, while Noda does show a primary fluid circuit including a tubing set, catheter and heat exchange fluid, Noda neither teaches nor suggests a disposable fluid circuit including a housing having a pump head and a reservoir disposed therein, as is claimed in amended claim 30. Noda only shows an IV bag, a roller pump and a heat exchanger, with the IV bag and roller pump being contained in separate, distinct, housings, rather than being disposed within a single housing, as claimed by Applicant.

Even when the cited art is taken in combination, as suggested by the Examiner, one skilled in the art would still not obtain Applicant's invention. The housing having a pump head and a reservoir disposed therein is completely different from similar structure disclosed by the cited art, such as Saringer and Noda. Applicant's entire circuit is disposable; moreover,

Applicant claims an external fluid source which is different from structurally, and serves a different purpose, than the reservoir contained in the housing. It is only through impermissible hindsight reconstruction that one would combine the art as suggested to obtain Applicant's invention. Accordingly, Applicant respectfully requests that the rejection be withdrawn and the claim 30, and claims 32-25 dependent therefrom, be allowed.

Claims 32-33 were amended to ensure correct antecedent basis in view of the amendments made to claim 30. No new matter was added in any of the amendments made to claims 30 and 32-33.

CONCLUSION

Applicant has carefully reviewed the arguments presented in the Office Action and respectfully requests entry of the amendment and reconsideration of the claims in view of the remarks presented. In light of the above amendments and remarks, Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Should the Examiner have any questions concerning the above amendments and arguments, or any suggestions for further amending the claims to obtain allowance, Applicants request that the Examiner contact Applicants' attorney, John Fitzgerald, at 310-242-2667.

Please charge any additional fees payable in connection with this Preliminary Amendment to our Deposit Account No. 06-2425.

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Respectfully submitted,

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